UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/2000/NGO/7
21 July 2000

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion
and Protection of Human Rights
Fifty-second session
Item 4 (c) of the provisional agenda

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS: THE QUESTION OF TRANSNATIONAL CORPORATIONS

Written statement*/ submitted by the Indian Movement "Tupaj Amaru",
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 July 2000]

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*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

THE ACTIVITIES OF TRANSNATIONAL CORPORATIONS

WHY URGE A CODE OF CONDUCT FOR TNC?

1. TNC plays an increasingly decisive role in the process of globalization of the world economy. Driving internationalization of the productions of goods and services in the North to South countries and liberalizes the foreign investment regime. They de-regulate the international financial system and generates a cyclic and structural crisis.

2. By their assets, the gigantic monopolies have holding controls of one third of industrial production and almost one half of the world trade. Rapidly become the independent super-power centre with an immense economic and political decision in host countries. Every transnational corporations operates and manages all activities from its headquarter or decision-making centers based in developed countries. It sets itself and its affiliates in developing countries by means of foreign direct investment (FDI) with a worldwide strategy designated to control the world economy.

3. With their vast, complex and contradictory universe, especially their infinitely great hegemonic power, TNC are genuine spider webs which involved all production and distribution of goods and services. Accumulating user capital, mobility of enterprises and workers in and out countries. They are omnipresent everywhere, particularly, in indigenous lands and territories, spoiling irrationally their wealth and natural resources and regard it as a strategic for the development of western world.

4. According to World Investment Report (1999), published by UNCTAD Division for TNC and Investment, "Since 1990, 100 largest and most powerful transnational corporations controls and manages the world economy." "The transnational corporations (TNC) are firms that engaged in international production. Comprised of over 500,000 foreign affiliates established by some 60,000 parent companies mainly from developed countries". (World Investment Report, Foreign Direct Investment, UN, New York, 1999, page2)

5. Amongst the 100 largest TNC ranking by Firkin Assets, 90 per cent have their headquarters in highly developed countries (European Union, Japan, United States of America, Canada), while only two in developing countries, notably, Petroleos de Venezuela and Daewoo Corporation of Korea.

6. "Over one third of global capital in the form of foreign direct investment (FDI) was held by these giant monsters, which have total assets about 3.2 trillion dollars, 40 per cent of which is invested outside the countries of origin" (See François Chesnais, Mondialisation du Capital, Paris, Ed.Syros, 1994; page 53).

7. On the basis of these asset values, the giant "General Electric, again, held the top position among the world's 100 non-financial TNC. Ranked by foreign assets, it holds the top place for the second consecutive year". "Approximately 85 per cent of the top 100 list is dominated by firms that have been in the top 100 ranking during these past five years" (World Investment Report, United Nations, 1999, page 77)

8. Beginning of the 21st century, all societies from North to South have succumbed to a world without borders, without laws and without ethical standards. The absence brings a need more than ever before, of an international legal framework that is capable of regulating the behaviour and activities of TNC and FDI throughout the world.

9. Certainly, the elaboration of the norms and regulations is given the most priority. This can be determined by a number of factors.

10. The invisible hand of the largest TNC are in a permanent quest of maximum profit. By their powerful nature, they often behave irrationally and blindly, that is without rules and outside the jurisdiction of host countries.

11) The Third World countries claims for the right to just and equitable development however impossible and improbable it is to bring such transnational activities under the control of a host countries' national legislation. The host States have gradually lost their bargaining power and sovereignty within the "Code of Conditionality" imposed by IFM. Now they can no longer exercise legal jurisdiction over foreign giant TNC and their affiliate companies operating in their territories. Now that the legislation no longer contains any references to the concept of "corporate nationality, rules of conduct or any definition of the legal status of ownership belong to TNC."

12) The host countries have liberalized their domestic laws and administrative practices. Substituting a more liberal investment regime, which neither specifies the legal status nor clearly defines the rights and duties of the transnational enterprises. At the time, these super national entities were not affected nationally nor stately. They operate and run through vertical links with their mother-parent giant companies which effectively means that they are only subject to the jurisdiction of the decision-making centers established in the industrialized countries.

14) In order to achieve their objectives and profits, they use and abuse several international financial institutions and legal and illegal mechanisms including unlawful means, such as bribery and corruption, political pressure and economic coercion, and even direct interference in internal political affairs of host countries.

15) In the South, globalization was preceded by the imposition of the neo-liberal development model as a universal and absolute value. In this sense, the structural adjustment programs imposed by the World Bank and IMF to Third World countries has generated the extreme poverty, which affects millions of human beings and external debt crisis. While the speculation through the world's exchange markets reached an astronomical profit margin, expanding immensely in general and absolute poverty. Even hungers are marginalized and excluded from the New World Economic Order.